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Attorneys for Defendant,
CORNELL UNIVERSITY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KEVIN VANGINDEREN,
Plaintiff,
v.
CORNELL UNIVERSITY,
Defendant.

Case No. 07 CV 2045 BTM (JMA)

Hon.

NOTICE OF REMOVAL OF CIVIL
ACTION FROM THE SUPERIOR
COURT OF THE STATE OF
CALIFORNIA FOR THE COUNTY
OF SAN DIEGO, SOUTH COUNTY
DIVISION; DECLARATION OF
CLIFFORD S. DAVIDSON

(San Diego Superior Court, South
County Division
Case No. 37-2007-00076496-CU-DF-
SC)

Action Filed: October 1, 2007

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441 and
3 1446, defendant Cornell University ("Defendant") hereby removes to this Court the
4 state court action described below. Removal is based on the following grounds.

5 1. On October 1, 2007, an action was commenced in the Superior Court of
6 the State of California, County of San Diego, South County Division, entitled *Kevin*
7 *Vanginderen v. Cornell University*, Case No. 37-2007-00076496-CU-SC (the "State
8 Court Action"). A true and correct copy of the Summons and Complaint in the State
9 Court Action are collectively attached hereto as Exhibit A. (Declaration of Clifford
10 S. Davidson ("Davidson Decl.") ¶ 2, Ex. A).

11 2. On October 3, 2007, the Complaint in the State Court Action was
12 served on Defendant.

13 3. The State Court Action is a civil action over which this Court has
14 original jurisdiction under 28 U.S.C. § 1332, and is one which Defendant may
15 remove to this Court pursuant to the provisions of 28 U.S.C. § 1441(b). The State
16 Court Action is a civil action between citizens of different states. The matter in
17 controversy exceeds the sum of \$75,000 as the Complaint by plaintiff Kevin
18 Vanginderen ("Plaintiff") seeks damages in the amount of \$1,000,000. This Court
19 is the proper venue as the State Court Action is pending in the South County
20 Division of the San Diego County Superior Court, which is within this District.

21 4. According to the Complaint in the State Court Action, and upon
22 Defendant's information and belief, Plaintiff was at the time of the filing of this
23 action, and still is, a citizen of the State of California. (Davidson Decl. ¶ 2, Ex. A).

24 5. Defendant was at the time of filing of this action, and still is, an
25 educational institution chartered and incorporated under the laws of the State of
26 New York, with its principal place of business in the State of New York.

27 6. This Notice of Removal is being filed within 30 days of service of the
28 Complaint in the State Court Action, the pleading from which it appeared that

1 removal was proper. Accordingly, the notice of removal is timely filed pursuant to
2 28 U.S.C. § 1446(b).

3 7. Notice of this removal is being given both to the adverse party
4 (Plaintiff) and to the San Diego Superior Court, South County Division, pursuant to
5 28 U.S.C. § 1446(d). A true and correct copy of the Notice to Adverse Party, which
6 will be finalized, filed and served shortly following the filing of this Notice of
7 Removal, is attached hereto as Exhibit B. (Davidson Decl. ¶ 4, Ex. B). A true and
8 correct copy of the Notice to State Court, which will be finalized and filed with the
9 San Diego County Superior Court, South County Division in the State Court Action,
10 is attached hereto as Exhibit C. (Davidson Decl. ¶ 5, Ex. C).

11 8. In the event this Court should have any questions about the propriety of
12 removal or may be inclined to remand this action, Defendant respectfully requests
13 that this Court issue an order to show cause why the case should not be remanded,
14 affording the parties an opportunity to provide the Court with full briefing and
15 argument.

16
17
18 DATED: October 26, 2007

BERT H. DEIXLER
CLIFFORD S. DAVIDSON
PROSKAUER ROSE LLP

19
20 
21 Bert H. Deixler

22 Attorneys for Defendant,
23 CORNELL UNIVERSITY
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DECLARATION OF CLIFFORD S. DAVIDSON

I, Clifford S. Davidson, declare as follows:

1. I am an attorney associated with the law firm Proskauer Rose LLP, attorneys for defendant Cornell University ("Defendant") in the above-captioned action. I am admitted to practice before this Court and am one of the attorneys responsible for handling this matter. Except as may be expressly noted below, I have firsthand knowledge of the facts set forth herein.

2. I am informed and believe that on October 1, 2007, an action was commenced in the Superior Court of California, County of San Diego, South County Division, entitled *Kevin Vanginderen v. Cornell University*, Case No. 37-2007-0076496-CU-DF-SC ("State Court Action"). A true and correct copy of the Summons and Complaint in the State Court Action, as well as the Notice of Case Assignment in the State Court Action, are collectively attached hereto as Exhibit A. I am informed and believe that Exhibit A represents the entirety of the case file in the State Court Action.

3. I am informed and believe that on October 3, 2007, the Complaint in the State Court Action was served on Defendant. I am informed and believe that Plaintiff has not yet filed a Proof of Service of Summons in the State Court Action.

4. Attached hereto as Exhibit B is a true and correct copy of the Notice to Adverse Party, which will be finalized, filed and served on plaintiff Kevin Vanginderen and filed in the State Court Action shortly following the filing of this Notice of Removal.

5. Attached hereto as Exhibit C is a true and correct copy of the Notice to State Court, which will be finalized and filed with the Superior Court of California, County of San Diego, South County Division shortly following the filing of this Notice of Removal.

6. This Notice of Removal is being filed within 30 days of October 3, 2007, the date I am informed and believe that Defendant was served with the

1 Summons and Complaint. The Complaint reveals that Plaintiff seeks \$1,000,000 in
2 general and punitive damages, and that there is complete diversity of the parties.

3 I declare under penalty of perjury under the laws of the State of California
4 and the United States of America that the foregoing is true and correct.

5 Executed this 26th day of October, 2007, at Los Angeles, California.

6
7
8 
9 Clifford S. Davidson

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(Local Civil Rule 5.1(e))

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SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
CORNELL UNIVERSITY

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
KEVIN VANGINDEREN

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California, County of San Diego
500 3rd Ave.

Chula Vista, CA 91910-5649

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Kevin Vanginderen

637 Third Ave., Ste. E1, Chula Vista, CA 91910

CASE NUMBER:
(Número del Caso):

37-2007-00076496-CU-DF-SC

DATE:
(Fecha)

OCT 01 2007

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

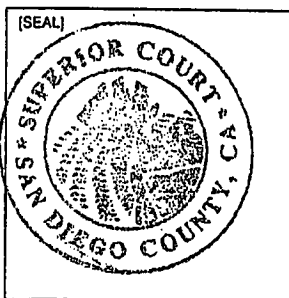
☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Bar number, and address): Kevin Vanginderen 637 Third Ave., Ste. E-1 Chula Vista, CA 91910 TELEPHONE NO.: (619) 585-7414 FAX NO.: ATTORNEY FOR (Name): plaintiff in pro per		FOR COURT USE ONLY 	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 500 3rd Ave. MAILING ADDRESS: 500 3rd Ave. CITY AND ZIP CODE: Chula Vista, CA 91910-5649 BRANCH NAME: South County Division			
CASE NAME: VANGINDEREN v. CORNELL UNIVERSITY		CASE NUMBER: 37-2007-00076496-CU-DF-SC	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		JUDGE: DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input checked="" type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Libel, Public Disclosure of Private Facts
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 1, 2007

Kevin Vanginderen

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 (Rev. July 1, 2007)**CIVIL CASE COVER SHEET**Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.govAmerican LegalNet, Inc.
www.FormsWorkflow.com

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state number, and address):		FOR COURT USE ONLY
Kevin Vanginderen 637 3rd Avenue, Suite E-1 Chula Vista, CA 91910 TELEPHONE NO: (619) 585-7414 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		
NAME OF COURT: Superior Court of California, San Diego County STREET ADDRESS: 500 Third Ave. MAILING ADDRESS: 500 Third Ave. CITY AND ZIP CODE: Chula Vista, CA 91910-5649 BRANCH NAME: South County		
PLAINTIFF: Kevin Vanginderen		
DEFENDANT: Cornell University		
<input type="checkbox"/> DOES 1 TO _____		
COMPLAINT — Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): Public Disclosure of <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death Private Fact/Libel <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Other Damages (specify): loss of reputation, mental anguish		
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		CASE NUMBER: 37-2007-00076496-CU-DF-SC

1. PLAINTIFF (name): Kevin Vanginderen

alleges causes of action against DEFENDANT (name): Cornell University

2. This pleading, including attachments and exhibits, consists of the following number of pages: 2

3. Each plaintiff named above is a competent adult

a. ☒ except plaintiff (name): Cornell University

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☒ a public entity (describe): a public university
- (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
- (5) ☐ other (specify):

b. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
- (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Complaint — Attachment 3.

SHORT TITLE: VANGINDEREN V. C. CONNELL UNIVERSITY

CASE NUMBER:

4. ☒ Plaintiff (name): Kevin Vanginderen
is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant (name):

- (1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

- (4) ☒ a public entity (describe): a public university
(5) ☐ other (specify):

c. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

- (4) ☐ a public entity (describe):
(5) ☐ other (specify):

b. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

- (4) ☐ a public entity (describe):
(5) ☐ other (specify):

d. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

- (4) ☐ a public entity (describe):
(5) ☐ other (specify):

☐ Information about additional defendants who are not natural persons is contained in Complaint — Attachment 5.

6. The true names and capacities of defendants sued as Does are unknown to plaintiff.

7. ☐ Defendants who are joined pursuant to Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

- a. ☐ at least one defendant now resides in its jurisdictional area.
b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
c. ☒ Injury to person or damage to personal property occurred in its jurisdictional area.
d. ☐ other (specify):

9. ☒ Plaintiff is required to comply with a claims statute, and

- a. ☒ plaintiff has complied with applicable claims statutes, or
b. ☐ plaintiff is excused from complying because (specify):

SHORT TITLE: VANGINDEREN V. CORNELL UNIVERSITY

CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. ☐ Motor Vehicle
- b. ☐ General Negligence
- c. ☒ Intentional Tort
- d. ☐ Products Liability
- e. ☐ Premises Liability
- f. ☐ Other (*specify*):

11. Plaintiff has suffered

- a. ☐ wage loss
- b. ☐ loss of use of property
- c. ☐ hospital and medical expenses
- d. ☒ general damage
- e. ☐ property damage
- f. ☐ loss of earning capacity
- g. ☒ other damage (*specify*): loss of reputation, mental anguish

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Complaint — Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. PLAINTIFF PRAYS for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☒ punitive damages
- b. The amount of damages is (*you must check (1) in cases for personal injury or wrongful death*):
- (1) ☐ according to proof
- (2) ☒ in the amount of: \$ 1,000,000.00

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Date: October 1, 2007

Kevin Vanginderen

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: VANGINDEREN V. CORNELL UNIVERSITY

CASE NUMBER:

1

(number)

CAUSE OF ACTION - Intentional Tort

Page 4ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): Kevin Vanginderen

alleges that defendant (name): Cornell Univeristy

☐ Does _____ to _____

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff

on (date): March 17 1983, September 2, 2007, and continuing
at (place): Cornell Univeristy, Chula Vista, CA, and to all national
and international internet service protocol adresses
(description of reasons for liability):

On March 17, 1983, a publication funded and operated by the defendant named the "Cornell Chronicle", was published with defamatory and libelous information about the plaintiff. The publication stated that an incorrect criminal charge was brought against the plaintiff, it misstated the basis for the actual charge brought against him and further portrayed the plaintiff as the likely perpetrator and suspect of numerous crimes he was never investigated for, charged with, nor had any involvement in. Sometime in the year 2007, the defendant republished this article onto the internet by placing it in the public domain on the defendant's library website for the first time, which was over twenty four years after its first more limited publication.

On September 2, 2007, the plaintiff first became aware of the original publication when he conducted an annual "google search" of his name on the internet. The false statements became prominently available to the plaintiff and all others running a similar commonly conducted search. The defendant was informed of these circumstances by the plaintiff on that date and asked to correct it, however, the defendant has refused to delete this information from the public domain resulting in potentially infinite occurrences of new counts of liability for libel.

The defendant is liable for damages for multiple counts of Libel dating back over twenty four years. The plaintiff has suffered extreme emotional distress and loss of reputation from the conduct of the defendant and requests general and punitive damages in the amount of \$1,000,000.

SHORT TITLE: VANGINDEREN V. CORNELL UNIVERSITY

CASE NUMBER:

2

(number)

CAUSE OF ACTION - Intentional Tort

Page 5ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): Kevin Vanginderen

alleges that defendant (name): Cornell Univeristy

☐ Does _____ to _____

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff

on (date): September 2, 2007, and continuing

at (place): Chula Vista, CA, and to all national and international internet service protocol addresses

(description of reasons for liability):

On March 17, 1983, a publication funded and operated by the defendant named the "Cornell Chronicle", was published with information which stated that a criminal charge was brought against the plaintiff and that he was the likely perpetrator and suspect of numerous crimes that he was never charged with. Sometime in the year 2007, the defendant republished this article onto the internet by placing it in the public domain on the defendant's library website for the first time, twenty four years after its first limited publication.

On September 2, 2007, the plaintiff first became aware of the original publication when he conducted an annual "google search" of his name on the internet. The defendant's statements from 1983 regarding the plaintiff have now for the first time become prominently available to the plaintiff and all others running a similar commonly conducted search. The information stating that a charge had been brought against the plaintiff in 1983 was first made available by the defendant in a prominent manner on the internet over twenty four years after the event. The defendant was informed of these circumstances by the plaintiff on that date and asked to delete it, however, the defendant has refused to delete this information from the public domain resulting in potentially infinite occurrences of new counts of liability for Public Disclosure of Private Facts.

The defendant is liable for damages for multiple counts of tortious Public Disclosure of Private Facts for disclosing private information dating back over twenty four years. The plaintiff has suffered extreme emotional distress and loss of reputation from the conduct of the defendant and requests general and punitive damages in the amount of \$1,000,000.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 500 Third Avenue	
MAILING ADDRESS: 500 Third Avenue	
CITY AND ZIP CODE: Chula Vista, CA 91910-5649	
BRANCH NAME: South County	
TELEPHONE NUMBER: (619) 691-4400	
PLAINTIFF(S) / PETITIONER(S): KEVIN VANGINDEREN	
DEFENDANT(S) / RESPONDENT(S): Cornell University	
VANGINDEREN VS. CORNELL UNIVERSITY	
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2007-00076496-CU-DF-SC

Judge: William S. Cannon

Department: S-04

COMPLAINT/PETITION FILED: 10/01/2007

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

BERT H. DEIXLER (SBN 70614)
CLIFFORD S. DAVIDSON (SBN 246119)
PROSKAUER ROSE LLP
2049 Century Park East, 32nd Floor
Los Angeles, CA 90067-3206
Telephone: (310) 557-2900
Facsimile: (310) 557-2193

Attorneys for Defendant,
CORNELL UNIVERSITY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO
SOUTH COUNTY DIVISION**

KEVIN VANGINDEREN,

Plaintiff,

v.

CORNELL UNIVERSITY,

Defendant.

) Case No. 37-2007-007-0076496-CU-DF-SC

) Hon. William S. Cannon
) Department S-04

) **NOTICE TO ADVERSE PARTY OF
) DEFENDANT'S FILING OF NOTICE
) OF REMOVAL TO UNITED STATES
) DISTRICT COURT FOR THE
) SOUTHERN DISTRICT OF
) CALIFORNIA**

) Action Filed: October 1, 2007

1 TO PLAINTIFF KEVIN VANGINDEREN AND HIS ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that a Notice of Removal of this action was filed in the United
3 States District Court for the Southern District of California on October 29, 2007, bearing Case No.
4 _____, by Defendant Cornell University

5 A true and correct copy of the Notice of Removal is attached to this Notice as Exhibit A,
6 and is served and filed herewith.

7
8 DATED: October 30, 2007

BERT H. DEIXLER
CLIFFORD S. DAVIDSON
PROSKAUER ROSE LLP

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11 _____ Bert H. Deixler

12 Attorneys for Defendant,
13 CORNELL UNIVERSITY
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5 Attorneys for Defendant,
CORNELL UNIVERSITY

FOR THE COUNTY OF SAN DIEGO

SOUTH COUNTY DIVISION

11 KEVIN VANGINDEREN,

Plaintiff,

v.

14 | CORNELL UNIVERSITY.

Defendant.

Case No. 37-2007-007-0076496-CU-DF-SC

Hon. William S. Cannon
Department S-04

**NOTICE TO STATE COURT OF
DEFENDANT'S FILING OF NOTICE
OF REMOVAL TO UNITED STATES
DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF
CALIFORNIA**

Action Filed: October 1, 2007

1 TO THE HONORABLE WILLIAM S. CANNON, JUDGE OF THE SUPERIOR COURT OF
2 THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO, SOUTH COUNTY
3 DIVISION:

4 PLEASE TAKE NOTICE that on October 29, 2007, defendant Cornell University filed a
5 Notice of Removal of the above-entitled action, pursuant to 28 U.S.C. § 1441(b), in the United
6 States District Court for the Southern District of California, bearing Case No.

7 _____
8 A true and correct copy of the Notice of Removal filed with the United States District
9 Court for the Central District of California is attached hereto as Exhibit A. Pursuant to 28 U.S.C.
10 § 1446(d), the action in this Court "shall proceed no further unless and until the case is remanded."

11
12 DATED: October 30, 2007

BERT H. DEIXLER
CLIFFORD S. DAVIDSON
PROSKAUER ROSE LLP

13
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15 _____
Bert H. Deixler

16 Attorneys for Defendant,
17 CORNELL UNIVERSITY
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1 BERT H. DEIXLER, SBN 70614
bdeixler@proskauer.com
2 CLIFFORD S. DAVIDSON, SBN 246119
cdavidson@proskauer.com
3 PROSKAUER ROSE LLP
2049 Century Park East, 32nd Floor
4 Los Angeles, CA 90067-3206
Telephone: (310) 557-2900
5 Facsimile: (310) 557-2193
6 Attorneys for Defendant,
CORNELL UNIVERSITY

FILED

07 OCT 29 AM 11:52

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *gma*

DEPUTY

RY FAX

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 KEVIN VANGINDEREN,
11 Plaintiff,
12
13 v.
14 CORNELL UNIVERSITY,
15 Defendant.

Case No. 07 CV 2045 BTM (JMA)

PROOF OF SERVICE

PROOF OF SERVICE

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I declare that: I am employed in the county of Los Angeles, California. I am over the age of eighteen years and not a party to the within cause; my business address is 2049 Century Park East, Suite 3200, Los Angeles, California 90067-3206.

On October 29, 2007, I served the foregoing documents, described as:

1. CIVIL COVER SHEET;
2. NOTICE OF REMOVAL OF CIVIL ACTION FROM THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO, SOUTH COUNTY DIVISION; DECLARATION OF CLIFFORD S. DAVIDSON; and
3. NOTICE OF PARTY WITH FINANCIAL INTEREST

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

Kevin Vanginderen
637 3rd Avenue, Suite E-1
Chula Vista, CA 91910

☐ (By Fax) By transmitting a true and correct copy thereof via facsimile transmission to

☐ (By Mail) I am "readily familiar" with the Firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ (By Personal Service)

☐ By personally delivering such envelope to the addressee.

☐ By causing such envelope to be delivered by messenger to the office of the addressee.

☒ By causing such envelope to be delivered by the office of the addressee by OVERNIGHT DELIVERY via Federal Express or by other similar overnight delivery service.

☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 29, 2007, at Los Angeles, California

Ivania Munguia
Type or Print Name

Signature

PROOF OF SERVICE

JS 44

(Rev. 07/89)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Kevin Vanginderen

DEFENDANTS

Cornell University

FILED

07 OCT 29 AM 11:50

07 CV

2045 BTM (JMA)
SOUTHERN DISTRICT OF CALIFORNIA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF: San Diego, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT: Tompkins, NY
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
(appearing in pro per)
637 Third Ave., Suite E1
Chula Vista, California 91910
(619) 585-7414

ATTORNEYS (IF KNOWN)
Bert H. Deixler, Clifford S. Davidson
Proskauer Rose LLP
2049 Century Park East, 32nd Floor
Los Angeles, California 90067-3206
(310) 557-2900

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PT | DEF | | PT | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Defendant removes this case pursuant to 28 U.S.C. sec. 1441(b).

This court has original jurisdiction over the matter, pursuant to 28 U.S.C. sec. 1332, because it appears on the face of the complaint that the amount in controversy exceeds \$75,000 and there is complete diversity of parties.

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input checked="" type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations Reporting & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions		

VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☒ 2 Removal from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$ 1,000,000

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE

Docket Number

DATE

SIGNATURE OF ATTORNEY OF RECORD

October 26, 2007

#143754 \$350 MB 10/29/07
::ODMA\PCDOCS\WORDPERFECT\22816\1 January 24, 2000 (3:10pm)

ORIGINAL

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

143754 - KD

**October 29, 2007
11:51:42**

Civ Fil Non-Pris

USAO #.: 07CV2045

Judge...: BARRY T MOSKOWITZ

Amount.: \$350.00 CK

Check#.: BC 64062

Total-> \$350.00

FROM: CIVIL FILING
VANGINDEREN V. CORNELL UNIV.